

BILL ANALYSIS

Senate Research Center
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S.B. 2434
By: Bettencourt
Local Government
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2019, the SH130 Municipal Management District (MMD) No. 1 was created by special district local law within the extraterritorial jurisdiction of the City of Austin, to provide certain improvements, projects, and services for public and use and benefit within the district.

To date, no development has occurred within the district's boundaries. However, the SH 130 MMD created in 2021, and continues to sponsor, the Texas Essential Housing Public Facility Corporation (TEHPFC). TEHPFC has contracted with multifamily residential property investors and owners, some located out of state, for the purpose of making their properties tax exempt through a PFC exemption. These properties are not located in the SH130 MMD and the TEHPFC's actions have negatively impacted communities well outside the SH130 MMD's boundaries, to the financial benefit of the TEHPFC, its for-profit partners, and the SH130 MMD.

The SH130 MMD has not developed improvements or projects in the district, and has failed to reach an assessment agreement with the City of Austin. The district's sole purpose appears to serve as sponsor to the TEHPFC. The TEHPFC's revenues represent fees for applications for agreements and percentages of total tax savings achieved by the PFC's ability to make property held for leaseback tax exempt. Local officials and taxpayers from various jurisdictions have expressed frustration with the surprise impacts the TEHPFC's arrangements have had on local budgets. Ultimately, the tax savings achieved by the TEHPFC, and its revenues, represent a shift in local tax burdens to other local taxpayers.

S.B. 2434 seeks to resolve the conflicts caused by the SH130 MMD and its sponsored corporate entity's actions by dissolving the SH130 MMD.

As proposed, S.B. 2434 amends current law relating to the dissolution of the SH130 Municipal Management District No. 1.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter I, Chapter 3971, Special District Local Laws Code, by adding Sections 3971.0902, 3971.0903, and 3971.0904, as follows:

Sec. 3971.0902. MANDATORY DISSOLUTION. Requires the board of directors (board) of the SH130 Municipal Management District No. 1 (district), except as provided by Section 3971.0903 to, not later than January 1, 2024:

(1) wind up district operations;

(2) transfer all remaining district assets to a trust created for the purposes of this section, with the commissioners court of the most populous county in which the district is located acting as trustee; and

(3) dissolve the district.

Sec. 3971.0903. DISTRICT OBLIGATIONS AND LIABILITIES. (a) Provides that if on January 1, 2024, the board finds that the board would not be authorized to dissolve the district under Section 3971.0901 (Dissolution) because of an existing condition described by Section 3971.0901(c) (relating to prohibiting the district from being dissolved by its board if the district meets certain criteria):

(1) the board is prohibited from dissolving the district under Section 3971.0902;

(2) the board is required to delay the transfer of assets to the trust as provided by Section 3971.0902 until the board is authorized to dissolve the district; and

(3) the district continues in existence solely for the purposes of resolving the condition, winding up district operations, and making the transfer of assets to the trust as provided by Section 3971.0902.

(b) Requires the board to resolve the conditions and continue to wind up district operations as quickly as practicable until the board would be authorized to dissolve the district under Section 3971.0901, at which time the board is required to make the transfer of assets to the trust as provided by Section 3971.0902 and dissolve the district.

Sec. 3971.0904. DISPOSITION OF REMAINING DISTRICT ASSETS. (a) Requires the district, not later than the 30th day before the date of the transfer of assets described by Section 3971.0902, to:

(1) compile a list of each taxing unit, as defined by Section 1.04 (Definitions), Tax Code, from which a public facility corporation created by the district received a tax exemption under Section 303.042 (Taxation), Local Government Code, before September 1, 2023; and

(2) provide the list compiled under Subdivision (1) to the trustee of the trust created under Section 3971.0902.

(b) Requires the trustee of the trust created under Section 3971.0902, as soon as practicable after the transfer of assets described by Section 3971.0902 or 3971.0903, to send to each taxing unit, as defined by Section 1.04, Tax Code, from which a public facility corporation created by the district received a tax exemption under Section 303.042, Local Government Code, a payment from the trust assets.

(c) Provides that the trustee:

(1) is authorized to apply a reasonable portion of the trust assets to the trustee's costs incurred administering this section; and

(2) is required to send any trust assets remaining after making the payments required by this section to a special fund of the county for use under Subsection (e).

(d) Requires that each payment be in an amount equal to the amount of tax revenue the receiving taxing unit would have collected from the public facility corporation without the exemption provided by Section 303.042, Local Government Code. Requires the trustee, if the total amount of remaining assets of the district are less than the amount required to make the payments required under this subsection, to make the payments on a pro-rata basis, based on the payment otherwise to be paid to each taxing unit.

(e) Authorizes a county that receives assets under Subsection (c)(2) to use the assets only for a service or project that benefits the former territory of the district.

SECTION 2. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 3. Effective date: September 1, 2023.